

**BEFORE THE
BOARD OF PSYCHOLOGY
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

AUREA R. HERNANDEZ, Ph.D.
Los Angeles County Department of Mental Health
17707 Studebaker Road
Cerritos, California 90703

Psychologist License No. PSY 7478

Respondent.

Case No. W238

OAH No. L-2002 090614

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Psychology, as its Decision in this matter.

This Decision shall become effective on November 27, 2003.

It is so ORDERED October 28, 2003.



FOR THE BOARD OF PSYCHOLOGY
William Lew Tan, President

1 BILL LOCKYER, Attorney General
of the State of California
2 AMY FAN, State Bar No. 156211
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
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6 Attorneys for Complainant

7 **BEFORE THE**
8 **BOARD OF PSYCHOLOGY**
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. W238

11 **AUREA R. HERNANDEZ, Ph.D.**
Los Angeles County Department of
Mental Health
12 17707 Studebaker Road
Cerritos, California 90703

OAH No. L-2002 090614

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

13 Psychologist License No. PSY 7478

14 Respondent.
15

16 In the interest of a prompt and speedy settlement of this matter, consistent with
17 the public interest and the responsibility of the Board of Psychology, the parties hereby agree to
18 the following Stipulated Settlement and Disciplinary Order which will be submitted to the Board
19 for approval and adoption as the final disposition of the Accusation.

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21 **PARTIES**

22 1. Thomas S. O'Connor (Complainant) is the Executive Officer of the Board
23 of Psychology (Board). He brought this action solely in his official capacity and is represented
24 in this matter by Bill Lockyer, Attorney General of the State of California, by Amy Fan, Deputy
25 Attorney General.

26 2. Respondent Aurea R. Hernandez, Ph.D. (Respondent) is represented in
27 this proceeding by attorney Henry Fenton, Esq., whose address is 11845 West Olympic
28 Boulevard, Suite 705, Los Angeles, California 90064.

1 3. On or about August 2, 1982, the Board issued Psychologist License No.
2 PSY 7478 to Respondent. The License was in full force and effect at all times relevant to the
3 charges brought in Accusation No. W238 and will expire on August 31, 2004, unless renewed.

4 **JURISDICTION**

5 4. Accusation No. W238 was filed before the Board, and is currently pending
6 against respondent. The Accusation and all other statutorily required documents were properly
7 served on respondent on August 16, 2002. Respondent timely filed her Notice of Defense
8 contesting the Accusation. A copy of Accusation No. W238 is attached as exhibit A and
9 incorporated herein by reference.

10 **ADVISEMENT AND WAIVERS**

11 5. Respondent has carefully read, fully discussed with counsel, and
12 understands the charges and allegations in Accusation No. W238. Respondent has also carefully
13 read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and
14 Disciplinary Order.

15 6. Respondent is fully aware of her legal rights in this matter, including the
16 right to a hearing on the charges and allegations in the Accusation; the right to be represented by
17 counsel at her own expense; the right to confront and cross-examine the witnesses against her;
18 the right to present evidence and to testify on her own behalf; the right to the issuance of
19 subpoenas to compel the attendance of witnesses and the production of documents; the right to
20 reconsideration and court review of an adverse decision; and all other rights accorded by the
21 California Administrative Procedure Act and other applicable laws.

22 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
23 each and every right set forth above.

24 **CULPABILITY**

25 8. Respondent admits the truth of each and every charge and allegation in
26 Accusation No. W238.

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9. Respondent agrees that her Psychologist License is subject to discipline and she agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

10. This stipulation shall be subject to approval by the Board of Psychology. Respondent understands and agrees that counsel for Complainant and the staff of the Board may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by respondent or her counsel. By signing the stipulation, respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

11. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

12. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Psychologist License No. PSY 7478 issued to Respondent Aurea R. Hernandez, is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

1. **NOTIFICATION TO EMPLOYER** Respondent shall provide each of her employers, where Respondent is providing psychological services, a copy of this Decision and Accusation No. W238 before commencing employment. Notification to the Respondent's current employer shall occur no later than the effective date of the Decision. Respondent shall

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1 submit, upon request by the Board or its designee, satisfactory evidence of compliance with this
2 term of probation.

3 2. **EDUCATIONAL REVIEW** Respondent shall submit to an educational
4 review concerning the circumstances that resulted in this administrative action. The educational
5 review shall be conducted by a board-appointed expert familiar with the case. Educational
6 reviews are informational only and intended to benefit Respondent's practice by preventing
7 future such complaints. Respondent shall pay all costs associated with this educational review.

8 3. **COURSE WORK** Respondent shall take and successfully complete not
9 less than 12 hours each year during probation of course work in the following areas: a) clinical
10 practice; and b) ethics and the law as they relate to the practice of psychology. Course work
11 must be pre-approved by the Board or its designee. All course work shall be taken at the
12 graduate level at an accredited educational institution or by an approved continuing education
13 provider. Classroom attendance is specifically required; correspondence or home study course
14 work shall not count toward meeting this requirement. The course work must be in addition to
15 any continuing education courses that may be required for license renewal.

16 Within 90 days of the effective date of this Decision, respondent shall submit to
17 the Board or its designee for its prior approval a plan for meeting the educational requirements.
18 All costs of the course work shall be paid by the respondent.

19 4. **INVESTIGATION/ENFORCEMENT COST RECOVERY**
20 Respondent shall pay the Board its costs of investigation and enforcement in the amount of
21 \$2,500 within the first year of probation. Such costs shall be payable to the Board of Psychology
22 and are to be paid regardless of whether the probation is tolled. Failure to pay such costs shall be
23 considered a violation of probation.

24 The filing of bankruptcy by respondent shall not relieve respondent of the
25 responsibility to repay investigation and enforcement costs.

26 5. **PROBATION COSTS** Respondent shall pay the costs associated with
27 probation monitoring each and every year of probation. Such costs shall be payable to the Board
28 of Psychology at the end of each fiscal year (June 30). Failure to pay such costs shall be

1 considered a violation of probation. The filing of bankruptcy by respondent shall not relieve
2 respondent of the responsibility to repay probation monitoring costs.

3 6. **OBEY ALL LAWS** Respondent shall obey all federal, state, and local
4 laws and all regulations governing the practice of psychology in California including the ethical
5 guidelines of the American Psychological Association. A full and detailed account of any and all
6 violations of law shall be reported by the respondent to the Board or its designee in writing
7 within seventy-two (72) hours of occurrence.

8 7. **QUARTERLY REPORTS** Respondent shall submit quarterly
9 declarations under penalty of perjury on forms provided by the Board or its designee, stating
10 whether there has been compliance with all the conditions of probation. Quarterly reports
11 attesting to non-practice status are to be submitted if probation is tolled.

12 8. **PROBATION COMPLIANCE** Respondent shall comply with the
13 Board's probation program and shall, upon reasonable notice, report to the Board of Psychology
14 probation monitor. Respondent shall contact the assigned probation monitor regarding any
15 questions specific to the probation order. Respondent shall not have any unsolicited or
16 unapproved contact with 1) complainants associated with the case; 2) Board members or
17 members of its staff; or 3) persons serving the Board as expert evaluators.

18 9. **INTERVIEW WITH BOARD OR ITS DESIGNEE** Respondent shall
19 appear in person for interviews with the Board or its designee upon request at various intervals
20 and with reasonable notice.

21 10. **CHANGES OF EMPLOYMENT** Respondent shall notify the Board in
22 writing, through the assigned probation monitor, of any and all changes of employment, location,
23 and address within 30 days of such change.

24 11. **TOLLING FOR OUT-OF-STATE PRACTICE, RESIDENCE OR**
25 **IN-STATE NON-PRACTICE** In the event respondent should leave California to reside or to
26 practice outside the State, or for any reason should respondent stop practicing psychology in
27 California, respondent shall notify the Board or its designee in writing within ten days of the
28 dates of departure and return or the dates of non-practice within California. Non-practice is

defined as any period of time exceeding thirty days in which respondent is not engaging in any activities defined in Sections 2902 and 2903 of the Business and Professions Code. During periods of non-practice, the probationary period is tolled and respondent's license or registration shall be placed on inactive status. The probationary period will not commence again until respondent activates his or her license and resumes practicing psychology in the state of California. However, the Board may require respondent to complete certain terms of probation that are not associated with active practice and respondent will be required to pay cost recovery and restitution as ordered.

12. **EMPLOYMENT AND SUPERVISION OF TRAINEES** If respondent is licensed as a psychologist, she shall not employ or supervise or apply to employ or supervise psychological assistants, interns or trainees during the course of this probation. Any such supervisory relationship in existence on the effective date of this probation shall be terminated by respondent and/or the Board.

13. **VIOLATION OF PROBATION** If respondent violates probation in any respect, the Board may, after giving respondent notice and the opportunity to be heard, revoke probation and carry out the disciplinary order that was stayed. If an Accusation or Petition to Revoke Probation is filed against respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final. No Petition for Modification or Termination of Probation shall be considered while there is an Accusation or Petition to Revoke Probation pending against respondent.

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1 14. **COMPLETION OF PROBATION** Upon successful completion of
2 probation, respondent's license shall be fully restored.

3 **ACCEPTANCE**

4 I have carefully read the above Stipulated Settlement and Disciplinary Order and
5 have fully discussed it with my attorney, Henry Fenton, Esq.. I understand the stipulation and
6 the effect it will have on my Psychologist License. I enter into this Stipulated Settlement and
7 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
8 Decision and Order of the Board of Psychology.

9
10 DATED: 9/9/03

11 
12 AUREA R. BERNANDEZ, Ph.D.
13 Respondent

14 I have read and fully discussed with Respondent Aurea R. Hernandez, Ph.D. the
15 terms and conditions and other matters contained in the above Stipulated Settlement and
16 Disciplinary Order. I approve its form and content.

17 DATED: 9-9-03

18 
19 HENRY FENTON, ESQ.
20 Attorney for Respondent

21 **ENDORSEMENT**

22 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
23 submitted for consideration by the Board of Psychology.

24 DATED: 9/10/03

25 BILL LOCKYER, Attorney General
26 of the State of California

27 
28 AMY FAN
Deputy Attorney General
Attorneys for Complainant

Exhibit A
Accusation No. W238

BILL LOCKYER, Attorney General
of the State of California
NANCY ANN STONER, State Bar No. 72839
Deputy Attorney General, for
KAREN B. CHAPPELLE
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Attorneys for Complainant

**BEFORE THE
BOARD OF PSYCHOLOGY
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. W238

AUREA R. HERNANDEZ
Los Angeles County Department of Mental Health
17707 Studebaker Road
Cerritos, California 90703

ACCUSATION

Psychologist License No. PSY 7478

Respondent.

Complainant alleges:

PARTIES

1. Thomas S. O'Connor (Complainant) brings this Accusation solely in his official capacity as the Executive Officer of the Board of Psychology.
2. On or about August 2, 1982, the Board of Psychology issued Psychologist License No. PSY 7478 to Aurea R. Hernandez (Respondent). The Psychologist License was in full force and effect at all times relevant to the charges brought herein and will expire on August 31, 2004, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board of Psychology (Board), under the authority of the following sections of the Business and Professions Code (Code).
4. Section 2960 of the Code states, in pertinent part:

1 “The board may refuse to issue any registration or license, or may issue a
2 registration or license with terms and conditions, or may suspend or revoke the registration or
3 license of any registrant or licensee if the applicant, registrant, or licensee has been guilty of
4 unprofessional conduct. Unprofessional conduct shall include, but not be limited to:

5 “....

6 “(h) Willful, unauthorized communication of information received in professional
7 confidence.

8 “....

9 “(j) Being grossly negligent in the practice of his or her profession.

10 “....

11 “(r) Repeated acts of negligence.”

12 5. Section 2915 of the Code states:

13 “The confidential relations and communications between psychologist and client
14 shall be privileged as provided by Article 7 (commencing with Section 1010) of Chapter 4 of
15 Division 8 of the Evidence Code.”

16 6. Section 728 of the Code states, in pertinent part:

17 “(a) Any psychotherapist or employer of a psychotherapist who becomes aware
18 through a patient that the patient had alleged sexual intercourse or alleged sexual contact with a
19 previous psychotherapist during the course of a prior treatment, shall provide to the patient a
20 brochure promulgated by the department that delineates the rights of, and remedies for, patients
21 who have been involved sexually with their psychotherapist. Further, the psychotherapist or
22 employer shall discuss with the patient the brochure prepared by the department.

23 “(b) Failure to comply with this section constitutes unprofessional conduct.”

24 COST RECOVERY

25 7. Section 125.3 of the Code states, in pertinent part, that the Board may
26 request the administrative law judge to direct a licensee found to have committed a violation or
27 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
28 and enforcement of the case.

1 8. Section 2964.6 of the Code states:

2 “An administrative disciplinary decision that imposes terms of probation may
3 include, among other things, a requirement that the licensee who is being placed on probation
4 pay the monetary costs associated with monitoring the probation.”

5 FIRST CAUSE FOR DISCIPLINE

6 (Disclosed Confidential Information)

7 9. Respondent is subject to disciplinary action under section 2960,
8 subdivision (h), of the Code in that she willfully disclosed information received in professional
9 confidence without authorization from the patient by filing a complaint and releasing information
10 to the Board about the patient’s relationship with her prior therapist, and also by disclosing the
11 patient’s social security number and private telephone number, without the knowledge or
12 authorization of the patient. The circumstances are as follows:

13 a. On or about August 8, 2000, Patient F.¹ began treatment at the Rio
14 Hondo Mental Health Center. Her presenting complaint was depression. On the “Adult
15 Initial Assessment” form it was noted that Patient F. acknowledged dating her prior
16 psychotherapist approximately one year after she was in treatment with him.

17 b. Patient F. commenced therapy with Respondent on or about
18 January 11, 2001.

19 c. The third therapy session with Respondent occurred on or about
20 January 31, 2001. During that visit, Patient F. told Respondent about a dating
21 relationship she had with a former therapist. Patient F. also told Respondent she did not
22 want anyone to know about the relationship.

23 d. According to Respondent’s progress notes for the January 31,
24 2001, session, the patient alleged her former therapist dated her in 1998 or 1999 after
25 stopping therapy. The note further indicates “Completed form for Board of Psychology.”
26 There is no notation that Respondent provided Patient F. with the brochure promulgated

27 1. Initials are used in this pleading to protect patient privacy. Respondent will be
28 provided with identifying information if discovery is requested.

1 by the Department of Consumer Affairs and/or Board of Psychology that delineates the
2 rights of, and remedies for, patients who have been involved with their psychotherapist.
3 Further, there is no notation that Respondent discussed with Patient F. the brochure or her
4 rights and remedies.

5 e. Patient F. was not informed that Respondent would report the
6 relationship to the Board of Psychology and she did not consent to that disclosure.

7 f. On or about February 6, 2002, the Board received a "Consumer
8 Complaint Form," signed by Respondent and dated January 31, 2001. The form reported
9 that Patient F. "states she dated her psychologist, [W.K.], in 1999, following
10 psychotherapy of one year (1998). Dating lasted several months." Included with the form
11 was an "Authorization for Release of . . . Records" for Patient F., which included her
12 social security number, but was not signed by the patient.

13 g. On February 14, 2001, Patient F. saw Respondent again for
14 treatment. Respondent did not note in her records or inform Patient F. that Respondent
15 had filed a complaint on behalf of the patient and disclosed the patient's relationship with
16 her former therapist to the Board of Psychology.

17 h. In May, 2001, Patient F. first learned that a complaint had been
18 filed, without her consent, when an investigator from the Medical Board called to discuss
19 the matter with her. Patient F. had not had any contact, or termination session, with
20 Respondent since the February 14, 2001, visit. In a Progress Note dated May 15, 2001,
21 Respondent summarized a telephone conversation about the Board's investigation of the
22 former therapist, and documented that she provided the patient's telephone number to the
23 investigator.

24 i. On or about June 18, 2001, Respondent contacted Patient F. by
25 telephone to ask her to reestablish another appointment. Patient F. told Respondent she
26 would not be coming back to the clinic. Respondent did not note Patient F.'s response in
27 the Progress Notes. On July 31, 2001, someone else from the clinic contacted Patient F.
28 and was told the patient was now seeing a private doctor for treatment. That person

1 completed a Discharge Summary, with a prognosis listed as "guarded," and closed the
2 case.

3 SECOND CAUSE FOR DISCIPLINE

4 (Gross Negligence)

5 10. Respondent is subject to disciplinary action under section 2960,
6 subdivision (j), of the Code in that her acts and omissions in the care and treatment of Patient F.,
7 singularly or collectively, constituted gross negligence in that:

8 a. The facts and circumstances set forth above in paragraph 9,
9 subparagraphs a through i, inclusive, are incorporated here.

10 b. The very nature of the information that was disclosed to the Board
11 was highly private, intimate and confidential, and the patient had indicated that she did
12 not want anyone to know about the relationship.

13 c. Respondent failed to discuss with Patient F. that Respondent
14 intended, or felt compelled, to file a complaint with the Board. After the complaint was
15 filed, Respondent never informed the patient that she had filed the complaint or disclosed
16 personal information about the patient to the Board.

17 d. Respondent never prepared the patient for the fact that the patient
18 might be contacted by the Board as part of an investigation into the private, intimate and
19 confidential information the patient did not want disclosed.

20 e. Respondent failed to properly terminate therapy in that she allowed
21 therapy to end without ever discussing the issue of the complaint with the patient.

22 f. Respondent's actions and lack of candor with the patient led to the
23 destruction of the therapeutic relationship.

24 THIRD CAUSE FOR DISCIPLINE

25 (Repeated Negligent Acts)

26 11. Respondent is subject to disciplinary action under section 2960,
27 subdivision (r), in that she was repeatedly negligent in her care and treatment of Patient F. The
28 facts and circumstances set forth above in paragraph 9, subparagraphs a through i, and paragraph

10, subparagraphs (a) through (f), inclusive, are incorporated here.

FOURTH CAUSE FOR DISCIPLINE

(Failure to Provide or Discuss the Brochure About Sex Misconduct)


12. Respondent is subject to disciplinary action under section 728 of the Code in that she failed to provide Patient F. with the brochure that delineates the rights of, and remedies for, patients who have been sexually involved with a prior therapist, and she failed to discuss the brochure or topic with the patient, even though Respondent filed a complaint alleging such conduct had occurred with the patient, without the patient's knowledge and consent. The facts and circumstances set forth above in paragraph 9, subparagraphs a through i, and paragraph 10, subparagraphs (a) through (f), inclusive, are incorporated here.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Psychology issue a decision:

1. Revoking or suspending Psychologist License No. PSY 7478, issued to Aurea R. Hernandez;
2. Ordering Aurea R. Hernandez to pay the Board of Psychology the reasonable costs of the investigation and enforcement of this case, and, if placed on probation, the costs of probation monitoring;
3. Taking such other and further action as deemed necessary and proper.

DATED: August 16, 2002


THOMAS S. O'CONNOR
Executive Officer
Board of Psychology
State of California
Complainant

DECLARATION OF SERVICE BY CERTIFIED MAIL

In the Matter of the Accusation filed
Against:

Aurea R. Hernandez, Ph.D.

No.: W238

I, the undersigned, declare that I am over 18 years of age and not a party to the within cause; my business address is 1422 Howe Avenue, Ste. 22 Sacramento, California 95825. I served a true copy of the attached:

DECISION AND ORDER

by mail on each of the following, by placing same in an envelope (or envelopes) addressed (respectively) as follows:

NAME AND ADDRESS

CERT NO.

Aurea R. Hernandez, Ph.D.
Los Angeles County Department of Mental Health
17707 Studebaker Road
Cerritos, CA 90703

7001 2510 0001 2147 2940

Henry Fenton, Esq.
11845 West Olympic Blvd., Ste. 705
Los Angeles, CA 90064

Amy Fan
Deputy Attorney General
Office of the Attorney General
300 S. Spring Street, Ste. 1702
Los Angeles, CA 90013

Each said envelope was then on October 28, 2003, sealed and deposited in the United States mail at Sacramento, California, the county in which I am employed, as certified mail, with the postage thereon fully prepaid, and return receipt requested.

Executed on, October 28, 2003, at Sacramento, California.
I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.



DECLARANT

Kathi Burns

Enforcement Coordinator